



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-040]

#### **Truck and Bus Tires from the People's Republic of China: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Duty Investigation; Notice of Amended Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On May 22, 2023, the U.S. Court of International Trade (CIT or the Court) issued its final judgment in *Guizhou Tyre Co., Ltd., et al., v. United States*, Consol. Court No. 19-00031, sustaining the U.S. Department of Commerce's (Commerce) remand redetermination pertaining to the antidumping duty investigation of truck and bus tires from the People's Republic of China (China) covering the period of investigation July 1, 2015, through December 31, 2015. Commerce is notifying the public that the CIT's final judgment is not in harmony with *Truck and Bus Tires from the People's Republic of China: Antidumping Duty Order*, 84 FR 4436 (February 15, 2019) (*Order*), and that Commerce is amending the *Order* with respect to Guizhou Tyre Import and Export Co., Ltd. (GTCIE), such that merchandise produced and/or exported by GTCIE, during the period February 15, 2019, through February 21, 2020, is not subject to the *Order*; merchandise produced and/or exported by GTCIE after February 21, 2020 remains subject to the *Order*.

**DATES:** Applicable June 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0410.

## SUPPLEMENTARY INFORMATION:

### Background

On January 27, 2017, Commerce published its *Final Determination* in the antidumping duty investigation of truck and bus tires from China. Commerce determined that GTCIE and Shanghai Huayi Group Corporation Limited (formerly Double Coin Holdings Ltd.) (Double Coin) were not eligible for a separate rate because each company failed to rebut the presumption of *de facto* government control.<sup>1</sup>

On March 13, 2017, the U.S. International Trade Commission (ITC) notified Commerce of its final determination that an industry in the United States is not materially injured or threatened with material injury within the meaning of section 735(b)(1)(A) of the Tariff Act of 1930, as amended (the Act) by reason of imports of truck and bus tires from China at less than fair value.<sup>2</sup> Accordingly, Commerce instructed U.S. Customs and Border Protection (CBP) to liquidate entries of subject merchandise without regard to antidumping duties.<sup>3</sup> On November 1, 2018, the CIT remanded the ITC's final negative determination.<sup>4</sup> On January 30, 2019, upon remand, the ITC issued its final determination, in which the ITC found that an industry in the United States is materially injured by reason of imports of truck and bus tires from China.

On February 8, 2019, pursuant to the U.S. Court of Appeals for the Federal Circuit's (Federal Circuit) opinion in *Diamond Sawblades*, the ITC notified Commerce of this determination upon remand.<sup>5</sup> On February 15, 2019, Commerce published the *Order*, in accordance with section 736(a) of the Act.<sup>6</sup>

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<sup>1</sup> See *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017) (*Final Determination*).

<sup>2</sup> See ITC's Letter, dated March 13, 2017; see also *Truck and Bus Tires from China*, 82 FR 14232 (March 17, 2017); and *Truck and Bus Tires from the People's Republic of China*, Investigation No. 701-TA-556 and 508 and 731-TA-1311, USITC Pub. 4673 (March 2017) (Final).

<sup>3</sup> See CBP Message No. 7094307, dated April 4, 2017.

<sup>4</sup> See *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, v. United States*, 348 F. Supp. 3d 1328 (CIT 2018).

<sup>5</sup> See ITC's Letter, "Truck and Bus Tires from China, Inv. Nos. 701-TA-556 & 731-TA-1311 (Final) (Remand): Notice of Remand Determinations," dated February 8, 2019 (ITC Remand Notification) (citing *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*)).

<sup>6</sup> See *Order*, 84 FR 4436.

Guizhou Tyre Co., Ltd. (GTC), a Chinese producer of truck and bus tires, with its affiliated exporter, GTCIE, and Double Coin with its affiliated U.S. importer, China Manufacturers Alliance LLC, appealed Commerce’s *Final Determination*. On January 24, 2022, the CIT remanded the *Final Determination* to Commerce to: (1) comment on (a) the Court’s stated intention of ordering Commerce to direct CBP to liquidate entries made prior to February 21, 2020, without regard to antidumping duties and to refund all cash deposits collected on these entries, with interest as provided by law, when it enters a judgment to conclude the judicial proceeding, as well as, (b) the Court’s selection of February 21, 2020 as the earliest possible date the *Order* could have been published; and (2) reconsider its denial of a separate rate for GTCIE and Double Coin.<sup>7</sup>

In its remand redetermination, issued in April 2022, Commerce: (1) stated that “{s}hould the Court proceed with its intended remedy and it is necessary to identify the earliest date that Commerce hypothetically could have published the *Order* following the CIT’s February 18, 2020 decision sustaining the ITC’s affirmative redetermination, Commerce believes the Court’s choice of February 21, 2020, is reasonable”; and (2) continued to find that GTCIE and Double Coin were not eligible for a separate rate.<sup>8</sup> The CIT sustained Commerce’s *Final Redetermination*.<sup>9</sup>

#### Timken Notice

In its decision in *Timken*,<sup>10</sup> as clarified by *Diamond Sawblades*,<sup>11</sup> the Federal Circuit held that, pursuant to section 516A(c) and (e) the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s May 22, 2023 judgment constitutes

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<sup>7</sup> See *Guizhou Tyre Co., Ltd., et al., v. United States*, Court No. 19-00031, Slip Op. 22-6 (CIT January 24, 2022).

<sup>8</sup> See *Final Results of Redetermination Pursuant to Court Order, Guizhou Tyre Co., Ltd., et al., v. United States*, Court No. 19-00031, Slip Op. 22-6 (CIT January 24, 2022), dated April 22, 2022 (*Final Redetermination*).

<sup>9</sup> See *Guizhou Tyre Co., Ltd., et al., v. United States*, Court No. 19-00031, Slip Op. 23-81 (CIT May 22, 2023).

<sup>10</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>11</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

a final decision of the CIT that is not in harmony with Commerce's *Order*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Antidumping Duty Order

Pursuant to the Court's order, Commerce is amending the *Order* with respect to GTCIE such that merchandise produced and/or exported by GTCIE during the period February 15, 2019, through February 21, 2020 is not subject to the *Order*; merchandise produced and/or exported by GTCIE after February 21, 2020 remains subject to the *Order*.

#### Liquidation of Suspended Entries

As a result of this amended order, in which Commerce is excluding merchandise produced and/or exported by GTCIE during the period February 15, 2019, through February 21, 2020, Commerce will direct CBP to terminate any suspension of liquidation of entries from GTCIE during the period February 15, 2019, through February 21, 2020, and to release any bonds or other security and refund cash deposits pertaining to any suspended entries from GTCIE during the period February 15, 2019, through February 21, 2020. Commerce will not revise the cash deposit requirements currently in effect for entries going forward.

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were exported by GTCIE, and were entered, or withdrawn from warehouse, during the period February 22, 2020, through January 31, 2024. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event that the CIT's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by GTCIE, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries during this period when the importer-specific *ad valorem* assessment rate is not zero or *de*

*minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>12</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 31, 2023.

**Lisa W. Wang,**

*Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>12</sup> See 19 CFR 351.106(c)(2).